

# WISCONSIN LEGISLATIVE COUNCIL STAFF

## RULES CLEARINGHOUSE

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## CLEARINGHOUSE RULE 94-203

### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]**

#### **2. Form, Style and Placement in Administrative Code**

a. Section HSS 40.03 (6) refers to the Diagnostic and Statistical Manual of Mental Disorders IV (4th edition). The department should ensure that the requirements of s. 227.21, Stats., relating to incorporation of standards by reference, have been met.

b. In s. HSS 40.03 (17), subds. 1 and 2 should be pars. (a) and (b).

c. In s. HSS 40.04 (8), the phrase “In the event that” should be replaced by the word “If.”

#### **4. Adequacy of References to Related Statutes, Rules and Forms**

a. In s. HSS 40.04 (7), the reference to “sub. (7)” should be replaced by a reference to “sub. (8).”

b. Section HSS 40.05 (2) should cite s. HSS 40.08 instead of s. HSS 40.09.

c. Section HSS 40.06 (4) (d) should cite ch. 455, Stats., instead of ch. 445, Stats.

d. In s. HSS 40.09 (2) (intro.), the cited subsection of s. HSS 40.07 does not exist. Should the reference be to s. HSS 40.07 (4) (a) to (h)?

e. Section HSS 40.10 (8) should cite s. 51.64 (2), Stats., instead of s. 51.01 (10), Stats.

f. Section HSS 40.16 (1) (b) should cite s. HSS 40.04 (6) (b) instead of s. HSS 40.04 (5) (b).

### **5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. Section HSS 40.01 (2) would be clearer if “under s. HSS 61.61” were moved to the end of the sentence.

b. Section HSS 40.03 (17) 1 could end with a period and the word “or” could be deleted to facilitate amending the list of physical restraints.

This change could be made throughout the rule wherever there is an introductory subsection or paragraph followed by a list of items to facilitate amending the rule in the future.

c. In s. HSS 40.04 (1) (c), the word “level” is not clear. It would be clearer to list levels I, II and III in the paragraph, since they are defined terms, or to include “level” in the definitions section.

d. Section HSS 40.05 (1) (a) could be changed to “hardship to the provider or to the client.”

e. In s. HSS 40.06 (1) (b), the word “guardian” should be replaced by the word “guardians.”

f. In s. HSS 40.06 (2) (intro.), the term “emotional stability” is vague and presumably would be difficult to measure in an applicant for employment. Perhaps the phrase could be replaced with a description of qualities an employee should possess to be effective with children with mental health disorders. Alternatively, “emotional stability” could be a criteria that the program is required to discuss with references and could be mentioned in one of the paragraphs relating to references.

g. In s. HSS 40.06 (2) (c), it may prove useful to include an appropriate reference to s. 111.335, Stats., relating to employment discrimination based on arrest or conviction records.

h. In s. HSS 40.06 (3) (b), the word “available” is unclear. Does it mean that this person should be on the premises?

i. In s. HSS 40.06 (4) (d), the term “educational...experience” is vague. Does it mean that the psychologist must have participated in an internship while in school or have taken courses directly related to the assessment and treatment of children with mental health disorders?

j. In s. HSS 40.06 (5), does clinical supervision include supervision of volunteers? [See s. HSS 40.07 (3) and the requirement that volunteers be supervised by qualified mental health professionals.]

k. Section HSS 40.08 (8) would be clearer if a semicolon replaced the comma following the phrase “or older”; if the word “or” were deleted before the word “pursuant”; and if a semicolon replaced the comma following a reference to ch. 48 or 55, Stats.

l. Section HSS 40.10 (2) (b) requires a summary of services the client will receive from his or her school or other educational resource. However, other sections of the rule mention other types of services a client may be receiving outside the day program. The paragraph could require summaries of other services or an additional paragraph could require additional summaries.

m. In s. HSS 40.10 (2) (d), in order to maintain a parallel structure, it appears that the word "Procedure" should be replaced by the phrase "Describe the procedure."

n. In s. HSS 40.10 (3) (b), it appears that subds. 1 and 2 can be combined. Also, it appears that par. (b) would be clearer if the word "where" were replaced by the phrase "a situation in which." Finally, in par. (c), it appears that the word "Where" should be replaced by the word "If."

o. Section HSS 40.10 (5) (a) 4 could be clearer as: "If indicated by the client's condition..., the progress shall be reviewed more frequently."

p. In s. HSS 40.10 (5) (b) 4, it is unclear what would constitute approval of a revised treatment plan. If it is the same procedure as the initial approval process, the subdivision should indicate that.

q. Section HSS 40.10 (7) (intro.) would be clearer if it ended with "under the following circumstances:".

r. In s. HSS 40.10 (7) (a) 2 (intro.), the use of the words "and," "or" and "and" make the provision unclear. For example, is it sufficient if the program director acts together with the clinical coordinator or must the program director and the clinical coordinator also receive the recommendation of the treatment planning team?

s. Section HSS 40.10 (8) would be clearer if the phrase "As required by s. 51.64 (2), Stats." were moved to the end of the sentence because the statute requires the program to report the deaths, not to adopt written policies and procedures.

t. Section HSS 40.11 (2) (a) 1. d. would be clearer if "which appear" were deleted.

u. In s. HSS 40.11 (2) (a) 1. e., the word "reoccurrence" should be "recurrence."

v. In s. HSS 40.11 (2) (a) 2 and (b) 2, the subdivisions have the same meaning but different wording. One of them should be changed to be consistent with the other.

w. In s. HSS 40.16 (1) (a) 2, the phrase "on these scales" is unclear. Does it refer to the measurable terms? This should be clarified.